

EXHIBIT A

RE: Local 7.1 Meet and Confer: Seeking Concurrence or Opposition on Motion for Recusal of Magistrate Judge Sally J. Berens

Gutierrez, Michael <gutierrez@butzel.com>

Tue 5/28/2024 9:28 AM

To: Britt Martin <bmartin0211@outlook.com>; Silver, Lee <silver@butzel.com>

Cc: Burk, Tyler A. <burkt@butzel.com>

Ms. Martin,

We do not concur in your request to seek recusal of Magistrate Judge Berens.

Relatedly, we are writing to seek your concurrence in the motion to strike and/or seal your proposed amended complaint that we intend to file tomorrow. The grounds for the motion are set forth in detail in Defendants' response to your appeal. Please let us know whether you will agree to voluntarily withdraw the new allegations pled in your amended complaint and, if not, whether you will agree to voluntarily seal the amended complaint. Thank you.

Michael Gutierrez

Shareholder

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From: Britt Martin <bmartin0211@outlook.com>

Sent: Friday, May 24, 2024 2:55 PM

To: Silver, Lee <silver@butzel.com>

Cc: Burk, Tyler A. <burkt@butzel.com>; Gutierrez, Michael <gutierrez@butzel.com>

Subject: [EXTERNAL] Local 7.1 Meet and Confer: Seeking Concurrence or Opposition on Motion for Recusal of Magistrate Judge Sally J. Berens

All,

I intend to file a motion for the recusal of Magistrate Judge Sally J. Berens from this case under 28 U.S.C. § 455. The basis for this motion is that Magistrate Judge Berens has conflicts of interest arising from personal relationships with parties, potential parties, and material witnesses involved in this lawsuit that require recusal and a reasonable person, knowing all the relevant facts, would harbor doubts about her impartiality.

The grounds include the following:

Magistrate Berens and Defendant Thomas C. Walker:

- Both are active members and shareholders of the Grand Rapids Yacht Club.
- They have sailed together in the same fleet (Laser Fleet) since at least 2021.
- Magistrate Berens serves on the GRYC Board of Directors as a Director and Membership Committee Chair, with substantial powers granted to shareholders, including decisions on club dues, assessments, and real estate transactions.

Magistrate Berens and Material Witness Mr. Paul Bacarella:

- In or around August 2021, Magistrate Berens went on a date with Mr. Paul Bacarella, a material witness in this case.
- Mr. Bacarella is a close friend of mine and an ex-boyfriend of Gosia Walker. His relationship with Ms. Walker has overlapped with the events giving rise to this lawsuit.

Magistrate Berens and David Edsenga:

- Magistrate Berens has a longstanding friendship with David Edsenga, general counsel to Irish Roofing & Exteriors, a client of Defendant HL PLC. As a client of Defendant HL PLC, Mr. Edsenga has a significant personal and financial interest in shielding your clients and their law firm from exposure of wrongdoing, thus interest in the outcome of this litigation.

Magistrate Berens' Connections to Forest Hills Public School District:

- Her children attend my alma mater, Forest Hills Northern/Northern Hills Middle School
 - My mother, Carie Skinner Kuhn, and stepfather, Jeffrey Brian Kuhn, have been employed as teachers at NHMS for approximately 25 years. The direct involvement of my mother and stepfather and their NHMS teacher colleagues, like Tonja Bogema, in the actions giving rise to this lawsuit indicates that they will be adverse parties and/or material witnesses in this case.
 - My mother and stepfather have a vested personal and financial interest in the outcome of this case, and sadly their objectives are aligned with those of your clients.
 - My stepbrother(s) and the children of Defendant Bill Henn are classmates with Magistrate Berens' children, complicating the potential for impartiality due to these personal connections within a closely-knit community.
 - My contentious relationship with the FHPS district further complicates this matter. FHPS employees including my mother and stepfather will be material witnesses in this case. There is a high probability that they will become named defendants, and Forest Hills Public School District has a vested interest in protecting their employees, such as my mother and stepfather, from exposure of their wrongdoings. Given the fact that they have been or will be teachers of Magistrate Berens' children, there is a significant risk that Judge Berens would be biased in their favor to avoid ruling against her children's educators.

Magistrate Berens' personal relationship and "recent collaboration" with Ms. Cathy Tracey:

- On January 9, 2024, Catherine A. Tracey of Miller Johnson law firm entered an appearance on behalf of defendants Rockford Public School District and Rockford Public Schools' Board of Education.

- Magistrate Judge Berens immediately recused herself from the case due to “a recent collaboration with an attorney in the case.” Magistrate Berens stated in her Order, “I recuse myself under 28 U.S.C. § 455(a) because my impartiality might be reasonably questioned based on a recent collaboration with one of the attorneys now appearing in the case.”
- Ms. Tracey is a friend and colleague of Defendant Andrew Cascini and a former colleague of mine. Ms. Tracey, Mr. Cascini, and I worked together in the employment section at Miller Johnson until 2019.
- Ms. Tracey was one of the lead attorneys for Forest Hills Public School District in an explosive 2015 Title IX lawsuit over the district's response to a student's 2010 report that she had been sexually assaulted by a prominent athlete. FHPS settled for \$600,000 in June 2015. Ms. Martin was a student at FHN during all of this.
- The student, Jane Doe, filed a federal lawsuit against FHPS district, (former) Superintendent Daniel Behm, (former) principal Terry Urquhart, **and (former) assistant superintendent and Title IX coordinator Anne Edsenga**. (Anne is the mother of Mr. David Edsenga and Mr. Patrick Edsenga)

In sum, the facts and circumstances regarding the relationships between Magistrate Judge Berens and...

1. Defendant Thomas C. Walker;
2. Mr. Paul Bacarella;
3. Mr. David Edsenga;
4. Forest Hills Public School District; and
5. Ms. Cathy Tracey,

...create conflicts of interest mandating recusal and are such that a reasonable person, knowing all the relevant facts, would harbor doubts about Magistrate Berens' impartiality. This perception is enough to warrant recusal under 28 U.S.C. § 455 to ensure that the proceedings are conducted with the utmost fairness and without any appearance of bias or prejudice.

Please let me know if you concur with or oppose this motion at your earliest convenience.

Thank you,

Brittany E. Martin